Filed 9/17/12 In re E.A. CA2/8

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re E.A., a Person Coming Under the Juvenile Court Law.	B238544
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. Er.A., Defendant and Appellant.	(Los Angeles County Super. Ct. No. CK90210)

APPEAL from orders of the Superior Court of Los Angeles County. Margaret Henry, Judge. Affirmed.

Robert McLaughlin, under appointment by the Court of Appeal, for Appellant.

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel and Jeanette Cauble, Deputy County Counsel, for Respondent.

Ermias A. (father) appeals from the finding that his daughter, E.A., was a person described by Welfare and Institutions Code section 300, subdivision (b) as a result of father's criminal history and from the dispositional order that father participate in domestic violence counseling.[1] He contends the orders were not supported by substantial evidence. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Mother and father did not live together, but shared caretaking responsibilities for E.A., who was born in November 2008. The evening of October 2, 2011, mother brought E.A. along on a visit to the home of mother's friend Endasha E. and Endasha's boyfriend. At a little before midnight, mother and the boyfriend started to argue. Mother picked up a knife and stabbed the boyfriend, then stabbed Endasha when she tried to intervene. Mother was arrested and E.A. spent that night with another friend of mother's. The next day, E.A. was detained and then released to father.

DCFS filed a section 300 petition alleging that E.A. was a person described by section 300, subdivision (a) [risk of serious physical harm inflicted non-accidentally] and subdivision (b) [risk of serious physical harm from failure to protect] as a result of mother's actions. Following the detention hearing, the dependency court released E.A. to father with family maintenance services. The matter was continued to October 28 with directions to the Department of Children and Family Services (DCFS) to submit a report addressing whether jurisdiction should be terminated as to E.A. with a family law order giving custody of E.A. to father.

Although father was not named in the original section 300 petition, on the day of the hearing, DCFS filed an amended petition adding paragraph b-2, which alleged that E.A. was a person described by section 300, subdivision (b) based on the following factual allegations: "[Father] has a criminal history of convictions for inflicting corporal injury to spouse/cohabitant in 2005 for which he was sentenced to 36 months probation

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[1] All future undesignated statutory references are to the Welfare and Institutions Code.

and then again in 2009; he was convicted for contempt [for] violation of protective order; a conviction for driving without a license for which he was sentenced to 12 months probation; and a conviction for carrying a concealed weapon on person. The child's father's criminal history and conduct endangers the child's physical safety and emotional well being and creates a detrimental home environment, placing the child at risk of physical harm and emotional harm and damage."

Notwithstanding paragraph b-2, DCFS's report stated that E.A. was doing well placed with father, who was being cooperative, and DCFS was satisfied that E.A. was safe. DCFS recommended against terminating jurisdiction over E.A. with a family law order because mother had a strong bond with the children, restricting mother's access to E.A. would be detrimental to E.A. and mother would benefit from services. Mother submitted on the reports and the dependency court sustained the petition as to her, but continued the matter to November 3 for adjudication of paragraph b-2 regarding father.[2] On November 3, the matter was continued to November 17 for father to provide DCFS with proof that he completed a domestic violence program.

In a Last Minute Information For The Court filed on the date of the continued hearing, DCFS stated that father had not provided proof that he had participated in a domestic violence program and had not returned calls from the social worker. Father did not appear at the hearing and his counsel stated that father had not returned counsel's phone calls. Counsel argued that, although paragraph b-2 was factually correct, DCFS had not shown how those facts put E.A. at risk of serious harm. The dependency court sustained paragraph b-2 and ordered father to participate in a domestic violence program. Father timely appealed.

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[2] Mother is not a party to this appeal.

DISCUSSION

A. The Jurisdiction Order and Finding

Father does not challenge dependency court jurisdiction over E.A. based on mother's conduct. He contends only that the dependency court erred in sustaining paragraph b-2 relating to father. But where one jurisdictional finding is supported by the evidence, the appellate court may decline to address the evidentiary support for any other jurisdictional finding. (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1491–1492; *In re Alexis H.* (2005) 132 Cal.App.4th 11, 16.) Here, since there is no contention that jurisdiction over E.A. was not properly based on mother's conduct, we decline to address father's challenge to jurisdiction based on paragraph b-2.[3]

Father's reliance on in *In re Daisy H.* (2011) 192 Cal.App.4th 713, for a contrary result is misplaced. In that case, the appellate court considered the father's appeal from a jurisdictional finding observing in a footnote that it was irrelevant that jurisdiction was supported by the mother's conduct because the jurisdictional findings as to the father could have severe and unfair consequences to him in future family law or dependency proceedings. (*Daisy H.*, at p. 716, fn. 4.) In coming to this conclusion, *Daisy H.* relied on *In re Joshua C.* (1994) 24 Cal.App.4th 1544, 1547-1548, in which the court held that the jurisdictional findings were reviewable even though dependency jurisdiction had terminated with a family law custody court order because the jurisdictional orders were the basis for the family law custody order. *Joshua C.* is inapposite because there were concrete consequences to the jurisdictional order in *Joshua C.* Here, given father's prior convictions for domestic violence, any collateral consequences of the jurisdictional order are purely speculative.

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[3] Inasmuch as we decline to address father's challenge to the order sustaining paragraph b-2, we need not decide respondent's contention that father forfeited the contention by failing to raise it in the trial court.

B. The Dispositional Order

Father contends the dispositional order directing him to participate in a domestic violence program should be reversed. His argument appears to be two fold. First, because the order sustaining paragraph b-2 was not supported by substantial evidence, the dispositional order should be stricken. Second, the order does not match the facts. Neither argument is persuasive.

The first argument necessarily fails inasmuch as we have affirmed the jurisdictional order. For reasons we shall explain, the second argument also fails.

The dependency court has broad discretion to make "virtually any order deemed necessary for the well-being of the child. [Citation.]" (*In re Sergio C.* (1999) 70 Cal.App.4th 957, 961; see also *In re Jasmine C.* (2003) 106 Cal.App.4th 177, 180 ["juvenile court has wide latitude in making orders necessary for the well-being of a minor"].) But "[e]ach reunification plan must be appropriate to the particular individual and based on the unique facts of that individual. [Citations.]" (*In re Misako R.* (1991) 2 Cal.App.4th 538, 545.) "[T]he record should show that [DCFS] identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained reasonable contact with the [parent] during the course of the service plan, and made reasonable efforts to assist the [parent when] compliance proved difficult . . . ." (*In re Riva M.* (1991) 235 Cal.App.3d 403, 414, italics omitted.) For example, in *In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1008, the father's repeated convictions for driving under the influence justified an order that he randomly drug and alcohol test.

Here, father admitted a history of domestic violence with mother, including a conviction, and a violation of a restraining order. There was also continuing animosity between mother and father who had been sharing custody of E.A. This evidence was sufficient to support the dependency court's conclusion that father's participation in a domestic violence program was reasonably necessary to prevent repetition of such conduct in the future.

Father's reliance on *Sergio C., supra*, 70 Cal.App.4th 957, for a contrary result is misplaced. In that case, the court found insufficient evidence to justify a drug testing order where the father denied drug use and the only evidence of such was the unsworn and unconfirmed allegation of the mother, "an admitted drug addict who had abandoned her children." (*Ibid*.) The court reversed the drug-test order and remanded to the dependency court with directions to order a further investigation to determine whether drug testing was necessary. (*Ibid*.) *Sergio C.* is inapposite because in this case father's history of domestic violence is undisputed.

DISPOSITION

The orders are affirmed.

RUBIN, J.

WE CONCUR:

BIGELOW, P. J.

GRIMES, J.